

Mail Stop Interference
P.O. Box 1450
Alexandria VA 22313-1450
Tel: 571-272-4683
Fax: 571-273-0042

Paper 1
Filed: December 23, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Advanced Research and Technology Institute, Inc.
Junior Party
(U.S. Patent Applications 08/948,764, 08/955,572 and 10/027,199).

v.

Immunex Corporation
Senior Party
(U.S. Patent 7,211,259),

Patent Interference No. 105,662 (MPT)
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)¹

1 **Part A. Declaration of interference**

2 An interference is declared (35 U.S.C. § 135(a)) between the above-
3 identified parties. Details of the application(s), patent (if any), reissue application

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

(if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

Part B. Judge managing the interference

Administrative Patent Judge Michael P. Tierney has been designated to manage the interference. Bd. R. 104(a).

Part C. Standing order

A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

Part D. Initial conference call

A telephone conference call to discuss the interference is set for **2:00 p.m.** on **February 10, 2009** (the Board will initiate the call).

No later than four business days prior to the conference call, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

Part E. Identification and order of the parties

Senior Party

Named Inventors: Raymond G. Goodwin, Seattle, WA

Craig A. Smith, Seattle, WA

Involved Patent: U.S. Patent No. 7,211,259, issued May 1, 2007, based on
U.S. Application 08/910,449, filed August 5, 1997.

Title: 4-1BB Polypeptides and DNA Encoding 4-1BB
Polypeptides

Assignee: Immunex Corporation

Junior Party

Named Inventor: Byoung Se Kwon, Carmel Indiana

Involved Applications:

i) U.S. Application 10/027,199, filed December 20, 2001, entitled
Receptor and Related Products and Methods;

ii) U.S. Application 08/955,572, filed October 22, 1997, entitled
Human H-4-1BB Protein;

iii) U.S. Application 08/948,764, filed October 10, 1997, entitled
Human Receptor H4-1BB Polypeptides and Methods For Use.

Assignee: Advanced Research and Technology Institute, Inc.

The senior party is assigned exhibit numbers 1001-1999. The junior party is
assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior
party is responsible for initiating settlement discussions. SO ¶ 126.1.

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A compound according to claims 7 or 16 of U.S. Patent 7,211,259 or according to claim 24 of U.S. Application 08/955,572 or claim 1 of U.S. Application 10/027,199.

Immunex '259: 1-19
Advanced Research and Technology Inst. '572: 5-6, 24, 26, 27-31
Advanced Research and Technology Inst. '764: 19-24, 26-36
Advanced Research and Technology Inst. '199: 1-3 and 19-23

Immunex '259: 1-2, 6-19
Advanced Research and Technology Inst. '572: 5-6, 24, 26-31²
Advanced Research and Technology Inst. '764: 19-24, 26, 28-36
Advanced Research and Technology Inst. '199: 1, 19 and 21-23

Immunex '259:	3-5	
Advanced Research and Technology Inst. '572:	None	
Advanced Research and Technology Inst. '764:	27 ³	
Advanced Research and Technology Inst. '199:	2, 3 and 20	

³ ‘764 claim 27 depends from previously cancelled claim 25.

The parties are accorded the following benefit for Count 1:

Immunex Corporation

i) U.S. Application 08/236,918, filed May 6, 1994.

ii) U.S. Application 08/060,843, filed May 7, 1993.

Advanced Research and Technology Institute Inc.:

i) U.S. Application 08/461,652, filed June 5, 1995;

ii) U.S. Application 08/122,796, filed **September 16, 1993**.

Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference, see SO ¶ 106.1.1:

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Advanced Research and Technology Institute, Inc.

Junior Party

(U.S. Patent Applications 08/948,764, 08/955,572 and 10/027,199).

V.

Immunex Corporation

Senior Party

(U.S. Patent 7,211,259),

Patent Interference No. 105,662 (MPT)
(Technology Center 1600)

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/Michael P. Tierney/
Administrative Patent Judge

Barnes & Thornburg, LLP
11 South Meridian
Indianapolis, IN 46204

Attorney for Immunex Corporation:

Immunex Corporation
Law Department
1201 Amgen Court West
Seattle, WA 98119

Immunex Corporation
Law Department
1201 Amgen Court West
Seattle, WA 98119

Copy of STANDING ORDER
Copy U.S. Patent 7,211,259
Copy of claims of 08/948,764, 08/955,572 and 10/027,199

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